

BEFORE THE DELAWARE STATE FIRE PREVENTION COMMISSION

IN RE: BRENNON FOUNTAIN

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Case No.: 1718

EMT ID NO.: 423072

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ORDER

WHEREAS, the Delaware State Fire Prevention Commission received a complaint filed by the Delaware Department of Justice regarding EMT Brennon Fountain on November 17, 2017; and

WHEREAS, said Complaint alleges that on or about September 4, 2017, Mr. Fountain was arrested for driving under the influence. On October 11, 2017, Mr. Fountain was charged for Felony level Third Offense Driving a Vehicle Under the Influence of Alcohol, in violation of 21 *Del. C.* § 4711A(a)(3); and

WHEREAS, the State alleges that at all times relevant, Mr. Fountain was an active EMT; and

WHEREAS, the State alleges that the charges stem from a course of conduct in which Mr. Fountain was found passed out behind the wheel of a car after being observed driving erratically, and when field tested, produced a Portable Breath Test result indicating a Blood Alcohol Content of .232 percent; and

WHEREAS, the State further alleges that Mr. Lieber failed to submit to the Commission a written report of his charges within 30 days in violation of Part 710, Section 14.8 of the Delaware State Fire Prevention Commission's regulations; and

WHEREAS, the State finally alleges that through his behavior, Mr. Lieber has engaged in unprofessional conduct in violation of Part 710, Section 14.4.1.6 of the Delaware State Fire Prevention Commission's regulations; and

WHEREAS, pursuant to 16 *Del. C.* § 6712A(a), upon the receipt by the Commission of a court document charging an ambulance attendant or EMT licensed by the Commission with a felony, the Commission shall issue an order temporarily suspending the certificate holder's certificate, pending a final hearing on the complaint. An order of temporary suspension shall remain in effect for a period until such time as a determination of the case.

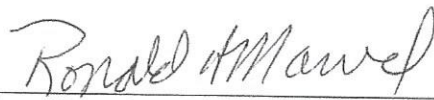
NOW, THEREFORE, IT IS ORDERED this 21st day of November, 2017:

1. The EMT license of Brennon Fountain is hereby suspended.
2. Mr. Fountain's license will remain suspended until the resolution of the State's complaint against Mr. Fountain filed with the Commission.
3. A hearing on the State's Complaint will be held within 180 days of the effective date of this Order, unless a continuance is requested by Mr. Fountain.
4. At the time of the hearing, Mr. Fountain shall have the right to present evidence on his own behalf and to be represented by counsel at his expense. He may request the Commission issue subpoenas for the attendance of witnesses and for the production of documents. The Commission will reach a final decision based on the evidence received at the hearing.
5. A copy of this Order and the State's Complaint will be provided to Mr. Fountain.

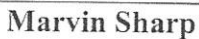
FOR THE STATE FIRE PREVENTION COMMISSION:



Alan Robinson, Jr., Chairman



Ron Marvel, Vice-Chairman


Marvin Sharp



Lynn Truitt


Tom DiCristofaro



Ted Walius


David J. Roberts

BEFORE THE DELAWARE STATE FIRE PREVENTION COMMISSION

IN RE: BRENNON A. FOUNTAIN)
) CASE NO.: 1718
EMT I.D. NO.: 423072)

NATURE OF THE PROCEEDINGS

Pursuant to due notice, a hearing was held before the Delaware State Fire Prevention Commission on May 15, 2018, concerning a disciplinary complaint against Brennon A. Fountain. In the Complaint, the State of Delaware alleged that Mr. Fountain violated the provisions of 16 Del. C. § 6712 and Part 710 Section 14.4.1.6 of the Commission Regulations in that he has engaged in unprofessional conduct as defined by Section 14.4.2 in that he operated a motor vehicle under the influence of alcohol and Section 14.8 in that he failed to self-report his arrest, charge, or conviction.

Zoe Plerhoples, Deputy Attorney General, presented the State's case. Mr. Fountain appeared *pro se*. Patricia Davis, Deputy Attorney General, advised the Commission.

SUMMARY OF THE EVIDENCE

In addition to live testimony, the following documents were introduced and made part of the record:

State Exhibit 1, consisting of the State's complaint filed in this matter.

State Exhibit 2, consisting of a two page indictment

State Exhibit 3, consisting of the criminal history record of Mr. Fountain.

State Exhibit 4, consisting of the two page DELJIS charge summary for Mr. Fountain.

The State called as its first witness Brennon Fountain. Mr. Fountain testified that he was driving a motor vehicle on September 4, 2017 under the influence of alcohol. He recalled that on

that day, he made a bad judgment. He entered his housing development and was under the impression that he was trying to get home safely, when he was confronted by the Delaware State Police after he passed out behind the wheel in front of one of his neighbor's homes. He was arrested for driving under the influence. On January 17, 2018, Mr. Fountain entered into a plea agreement with the State in regard to this, his third DUI offense. He agreed to two years of incarceration, suspended, contingent on the completion of 90 days of the Reflections program, followed by 18 months at Level 3 probation. As he sits here today, he believes he has a problem with alcohol. He completed the intensive outpatient treatment program, attending classes for about 3 hours each evening. A minimum of three courses must be attended per week, and random drug and alcohol testing occurs. This is a program sponsored by the Court. He is still in that process and is 60% complete. He expects to complete the program May 31, 2018. He attends AA meetings twice per week. He attends counseling sessions that are provided through his program and his plan is to focus on doing whatever it takes to get through this program. His counseling is through the Mind & Body Consortium, and he plans to attend these sessions as needed for the foreseeable future. This counseling sessions are with a certified addiction treatment specialist.

At the conclusion of Mr. Fountain's testimony, the State rested. Mr. Fountain then testified in his own defense. Mr. Fountain thanked the Commission for the opportunity to address this situation and explained that he understands the nature and gravity of his transgression. Mr. Fountain assured the Commission that it would have no further issues with him if his license is reinstated. He is committed to his sobriety and wants to get back to the job he loves.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having been afforded all appropriate notice and having an opportunity to confront the evidence against him, the Commission finds that due process has been afforded Mr. Fountain in

this matter. The Commission finds as a matter of fact that September 4, 2017, Mr. Fountain was arrested and charged with his third charge of Driving Under the Influence. In reaching this finding, the Commission relies on the testimony of Mr. Fountain and the State's Exhibit 2 & 3. The Commission further finds that Mr. Fountain failed to report his arrest, charge, or conviction. In reaching this finding, the Commission relies on the testimony of Mr. Fountain.

Therefore, the Commission concludes as a matter of law that Mr. Fountain has violated the Commission Regulation 710, Section 14.4.1.6 of the Commission Regulations in that he has engaged in unprofessional conduct as defined by Section 14.4.2 in that he operated a motor vehicle under the influence of alcohol and Section 14.8 in that he failed to self-report his arrest, charge, or conviction. However, the Commission agrees with the State's position that the failure to self-report should not serve as an aggravating factor in this case in light of Mr. Fountain's testimony.

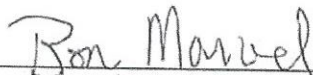
The Commission finds that the appropriate discipline in this case, in light of all of the testimony, shall be:

1. Mr. Fountain's EMT license shall be suspended for a period of one year, beginning on the date of this order.
2. This suspension shall be stayed immediately for a period of probation during which time Mr. Fountain must provide monthly reports of compliance with treatment, counseling sessions twice per month, and an attestation that he is complying with all laws and regulations pertaining to the conduct of licensees.
3. Any violation of the probationary terms will result in the automatic conversion of the probation to suspension. Successful completion of the probationary term will result in the immediate termination of the probation without further hearing.

IT IS SO ORDERED, this 19th day of June, 2018 by the Commission:



Alan Robinson, Chairman



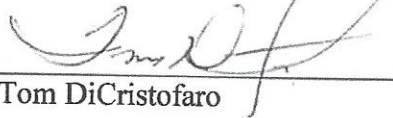
Ron Marvel, Vice Chairman

absent

Lynn Truitt

absent

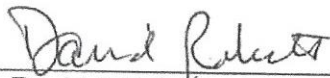
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